Appendix J: Appropriate Use Determinations

Appropriate Refuge Uses

The Service's Appropriate Use policy describes the initial decision process a refuge manager follows when first considering whether or not to allow a proposed use on a refuge. The refuge manager must first find a use to be appropriate before undertaking a compatibility review of the use and outlining the stipulations of the use.

This policy clarifies and expands on the compatibility policy (603 FW 2.10D(1)), which describes when refuge managers should deny a proposed use without determining compatibility. If we find a proposed use is not appropriate, we will not allow the use and will not prepare a compatibility determination. By screening out proposed uses not appropriate to the refuge, the refuge manager avoids unnecessary compatibility reviews. By following the process for finding the appropriateness of a use, we strengthen and fulfill the Refuge System mission. Although a refuge use may be both appropriate and compatible, the refuge manager retains the authority to not allow the use or modify the use.

Background for this policy as it applies to Muscatatuck NWR is found in the following statutory authorities:

National Wildlife Refuge System Administration Act of 1966, as amended by the *National Wildlife Refuge System Improvement Act of 1997* (16 U.S.C. 668dd-668ee). This law provides the authority for establishing policies and regulations governing refuge uses, including the authority to prohibit certain harmful activities. The Administration Act does not authorize any particular use, but rather authorizes the Secretary of the Interior to allow uses only when they are compatible. The Improvement Act provides the Refuge System mission and includes specific directives and a clear hierarchy of public uses on the Refuge System.

Refuge Recreation Act of 1962, (16 U.S.C. 460k). This law authorizes the Secretary of the Interior to allow public recreation in areas of the Refuge System when the use is an "appropriate incidental or secondary use."

This policy does NOT apply to:

Situations Where Reserved Rights or Legal Mandates Provide We Must Allow Certain Uses.

Refuge Management Activities. Refuge management activities conducted by the Refuge System or a Refuge System-authorized agent are designed to conserve fish, wildlife, and plants and their habitats. These activities are used to fulfill a refuge purpose(s) or the Refuge System mission, and are based on sound professional judgment.

Uses that have been administratively determined to be appropriate are:

Six wildlife-dependent recreational uses. As defined by the National Wildlife Refuge System Improvement Act of 1997 (Improvement Act), the six wildlife-dependent recreational uses (hunting, fishing, wildlife observation and photography, and environmental education and interpretation) are determined to be appropriate. However, the refuge manager must still determine if these uses are compatible.

Take of fish and wildlife under State regulations. States have regulations concerning take of wildlife that includes hunting, fishing, and trapping. We consider take of wildlife under such regulations appropriate. However, the refuge manager must determine if the activity is compatible before allowing it on a refuge.

Refuge uses must meet at least one of the following 4 conditions to be deemed appropriate:

It is a wildlife-dependent recreational use of a refuge as identified in the Improvement Act.

It contributes to fulfilling the refuge purpose(s), the Refuge System mission, or goals or objectives described in a refuge management plan approved after the Improvement Act was signed into law.

The use involves the take of fish and wildlife under State regulations.

The refuge manager has evaluated the use following the guidelines in this policy and found that it is appropriate. The criteria used by the manager to evaluate appropriateness can be found on each of the appropriate use forms included in this appendix. Also included under this condition are 'specialized uses,' or uses that require specific authorization from the Refuge System, often in the form of a special use permit, letter of authorization, or other permit document. These uses do not include uses already granted by a prior existing right. We make appropriateness findings for specialized uses on a case-by-case basis.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Trapping of Nuisance Wildlife

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies.

Yes X

No ____

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate ___

Appropriate X

Refuge Manager: _____

Date:

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Tree Harvest by Third Parties

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies.

Yes X

No ____

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate ___

Appropriate X

Refuge Manager: _____

Date:

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Gathering of Antlers, Nuts, Berries or Mushrooms

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies.

Yes X

No ____

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate ___

Appropriate X

Refuge Manager: _____

Date:

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Farming

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

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If indicated, the refuge manager has consulted with State fish and wildlife agencies.

Yes X

No ____

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

Not Appropriate ___

Appropriate X

Refuge Manager: _____

Date:

If found to be Not Appropriate, the refuge supervisor does not need to sign concurrence if the use is a new use.

If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Haying

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

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If indicated, the refuge manager has consulted with State fish and wildlife agencies.

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Based on an overall assessment of these factors, my summary conclusion is that the proposed use is:

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Appropriate X

Refuge Manager: _____

Date:

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If an existing use is found Not Appropriate outside the CCP process, the refuge supervisor must sign concurrence.

If found to be Appropriate, the refuge supervisor must sign concurrence.

Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.

Finding of Appropriateness of a Refuge Use

Refuge Name: Swan Lake National Wildlife Refuge

Use: Research Projects by Third Parties

This exhibit is not required for wildlife-dependent recreational uses, forms of take regulated by the State, or uses already described in a refuge CCP or step-down management plan approved after October 9, 1997.

Decision Criteria:	YES	NO
Do we have jurisdiction over the use?	X	
Does the use comply with applicable laws and regulations (Federal, State, tribal, and local)?	X	
Is the use consistent with applicable Executive orders and Department and Service policies?	X	
Is the use consistent with public safety?	X	
Is the use consistent with goals and objectives in an approved management plan or other document?	X	
Has an earlier documented analysis not denied the use or is this the first time the use has been proposed?	X	
Is the use manageable within available budget and staff?	X	
Will this be manageable in the future within existing resources?	X	
Does the use contribute to the public's understanding and appreciation of the refuge's natural or cultural resources, or is the use beneficial to the refuge's natural or cultural resources?	X	
Can the use be accommodated without impairing existing wildlife-dependent recreational uses or reducing the potential to provide quality (see section 1.6D. for description), compatible, wildlife-dependent recreation into the future?	X	

Where we do not have jurisdiction over the use ("no" to (a)), there is no need to evaluate it further as we cannot control the use. Uses that are illegal, inconsistent with existing policy, or unsafe ("no" to (b), (c), or (d)) may not be found appropriate. If the answer is "no" to any of the other questions above, we will generally not allow the use.

If indicated, the refuge manager has consulted with State fish and wildlife agencies.

Yes X

No ____

When the refuge manager finds the use appropriate based on sound professional judgment, the refuge manager must justify the use in writing on an attached sheet and obtain the refuge supervisor's concurrence.

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Refuge Supervisor: _____

Date:

A compatibility determination is required before the use may be allowed.